

Environmental Protection Agency

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be involved in the proposed action should it be implemented; and

(h) A discussion of problems and objections raised by other Federal, State and local agencies and by interested persons in the review process.

§ 227.25 Contents of plans.

In addition to the environmental assessment required by § 227.24, a plan developed pursuant to this subpart F must include a schedule for eliminating ocean dumping or bringing the wastes into compliance with the environmental impact criteria of subpart B, including without limitation, the following:

(a) If the waste is treated to the degree necessary to bring it into compliance with the ocean dumping criteria, the applicant should provide a description of the treatment and a scheduled program for treatment and a subsequent analysis of treated material to prove the effectiveness of the process.

(b) If treatment cannot be effected by post-process techniques the applicant should, determining the offending constituents, examine his raw materials and his total process to determine the origin of the pollutant. If the offending constituents are found in the raw material the applicant should consider a new supplier and provide an analysis of the new material to prove compliance. Raw materials are to include all water used in the process. Water from municipal sources complying with drinking water standards is acceptable. Water from other sources such as private wells should be analyzed for contaminants. Water that has been used in the process should be considered for treatment and recycling as an additional source of process water.

(c) If offending constituents are a result of the process, the applicant should investigate and describe the source of the constituents. A report of this information will be submitted to EPA and the applicant will then submit a proposal describing possible alternatives to the existing process or processes and level of cost and effectiveness.

(d) If an acceptable alternative to ocean dumping or additional control technology is required, a schedule and documentation for implementation of

the alternative or approved control process shall be submitted and shall include, without limitation:

- (1) Engineering plan;
- (2) Financing approval;
- (3) Starting date for change;
- (4) Completion date;
- (5) Operation starting date.

(e) If an acceptable alternative does not exist at the time the application is submitted, the applicant will submit an acceptable in-house research program or employ a competent research institution to study the problem. The program of research must be approved by the Administrator or Regional Administrator, as the case may be, before the initiation of the research. The schedule and documentation for implementation of a research program will include, without limitation:

- (1) Approaches;
- (2) Experimental design;
- (3) Starting date;
- (4) Reporting intervals;
- (5) Proposed completion date;
- (6) Date for submission of final report.

§ 227.26 Implementation of plans.

Implementation of each phase of a plan shall be initiated as soon as it is approved by the Administrator or Regional Administrator, as the case may be.

Subpart G—Definitions

§ 227.27 Limiting permissible concentration (LPC).

(a) The limiting permissible concentration of the liquid phase of a material is:

(1) That concentration of a constituent which, after allowance for initial mixing as provided in § 227.29, does not exceed applicable marine water quality criteria; or, when there are no applicable marine water quality criteria,

(2) That concentration of waste or dredged material in the receiving water which, after allowance for initial mixing, as specified in § 227.29, will not exceed a toxicity threshold defined as 0.01 of a concentration shown to be acutely toxic to appropriate sensitive marine organisms in a bioassay carried

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out in accordance with approved EPA procedures.

(3) When there is reasonable scientific evidence on a specific waste material to justify the use of an application factor other than 0.01 as specified in paragraph (a)(2) of this section, such alternative application factor shall be used in calculating the LPC.

(b) The limiting permissible concentration of the suspended particulate and solid phases of a material means that concentration which will not cause unreasonable acute or chronic toxicity or other sublethal adverse effects based on bioassay results using appropriate sensitive marine organisms in the case of the suspended particulate phase, or appropriate sensitive benthic marine organisms in the case of the solid phase; and which will not cause accumulation of toxic materials in the human food chain. Suspended particulate phase bioaccumulation testing is not required. These bioassays are to be conducted in accordance with procedures approved by EPA, or, in the case of dredged material, approved by EPA and the Corps of Engineers.¹

(c) *Appropriate sensitive marine organisms* means at least one species each representative of phytoplankton or zooplankton, crustacean or mollusk, and fish species chosen from among the most sensitive species documented in the scientific literature or accepted by EPA as being reliable test organisms to determine the anticipated impact of the wastes on the ecosystem at the disposal site. Bioassays, except on phytoplankton or zooplankton, shall be run for a minimum of 96 hours under temperature, salinity, and dissolved oxygen conditions representing the extremes of environmental stress at the disposal site. Bioassays on phytoplankton or zooplankton may be run for shorter periods of time as ap-

propriate for the organisms tested at the discretion of EPA, or EPA and the Corps of Engineers, as the case may be.

(d) *Appropriate sensitive benthic marine organisms* means two or more species that together represent filter-feeding, deposit-feeding, and burrowing characteristics. These organisms shall be chosen from among the species that are most sensitive for each type they represent, and that are documented in the scientific literature and accepted by EPA as being reliable test organisms to determine the anticipated impact on the site; provided, however, that until sufficient species are adequately tested and documented, interim guidance on appropriate organisms available for use will be provided by the Administrator, Regional Administrator, or the District Engineer, as the case may be.

[42 FR 2476, Jan. 11, 1977; 43 FR 1071, Jan. 6, 1978, as amended at 59 FR 26572, May 20, 1994; 59 FR 52652, Oct. 18, 1994; 61 FR 51203, Sept. 30, 1996; 65 FR 47325, Aug. 2, 2000]

§ 227.28 Release zone.

The release zone is the area swept out by the locus of points constantly 100 meters from the perimeter of the conveyance engaged in dumping activities, beginning at the first moment in which dumping is scheduled to occur and ending at the last moment in which dumping is scheduled to occur. No release zone shall exceed the total surface area of the dumpsite.

§ 227.29 Initial mixing.

(a) Initial mixing is defined to be that dispersion or diffusion of liquid, suspended particulate, and solid phases of a waste which occurs within four hours after dumping. The limiting permissible concentration shall not be exceeded beyond the boundaries of the disposal site during initial mixing, and shall not be exceeded at any point in the marine environment after initial mixing. The maximum concentration of the liquid, suspended particulate, and solid phases of a dumped material after initial mixing shall be estimated by one of these methods, in order of preference:

(1) When field data on the proposed dumping are adequate to predict initial dispersion and diffusion of the waste, these shall be used, if necessary, in

¹An implementation manual is being developed jointly by EPA and the Corps of Engineers, and announcement of the availability of the manual will be published in the FEDERAL REGISTER. Until this manual is available, interim guidance on the appropriate procedures can be obtained from the Marine Protection Branch, WH-548, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460, or the Corps of Engineers, as the case may be.